

1 AN ACT concerning health facilities.

2 Be it enacted by the People of the State of Illinois,  
3 represented in the General Assembly:

4 Section 5. The Hospital Licensing Act is amended by  
5 adding Section 10.8 as follows:

6 (210 ILCS 85/10.8 new)

7 Sec. 10.8. Requirements for employment of physicians.

8 (a) Physician employment by hospitals and hospital  
9 affiliates. Employing entities may employ physicians to  
10 practice medicine in all of its branches provided that the  
11 following requirements are met:

12 (1) The employed physician is a member of the  
13 medical staff of either the hospital or hospital  
14 affiliate. If a hospital affiliate decides to have a  
15 medical staff, its medical staff shall be organized in  
16 accordance with written bylaws where the affiliate  
17 medical staff is responsible for making recommendations  
18 to the governing body of the affiliate regarding all  
19 quality assurance activities and safeguarding  
20 professional autonomy. The affiliate medical staff  
21 bylaws may not be unilaterally changed by the governing  
22 body of the affiliate. Nothing in this Section requires  
23 hospital affiliates to have a medical staff.

24 (2) An independent medical staff committee or an  
25 external independent physician reviewer or organization  
26 periodically reviews the quality of the medical services  
27 provided by the employed physician.

28 (3) The employing entity and the employed physician  
29 sign a statement acknowledging that the employer shall  
30 not unreasonably exercise, control, direct, or interfere  
31 with the employed physician's exercise and execution of

1 his or her professional judgment in a manner that  
2 adversely affects the employed physician's ability to  
3 provide quality care to patients. This signed statement  
4 shall take the form of a provision in the physician's  
5 employment contract or a separate signed document from  
6 the employing entity to the employed physician. This  
7 statement shall state: "As the employer of a physician,  
8 (employer's name) shall not unreasonably exercise,  
9 control, direct, or interfere with the employed  
10 physician's exercise and execution of his or her  
11 professional judgment in a manner that adversely affects  
12 the employed physician's ability to provide quality care  
13 to patients."

14 (4) The employing entity shall establish a  
15 confidential peer review process with criteria under  
16 which an employed physician, who believes that an  
17 employing entity has violated this Section, may seek  
18 review of the alleged violation by either a mutually  
19 agreed upon medical staff committee of the employing  
20 entity, if any, or a mutually agreed upon independent  
21 external physician reviewer or organization to assess  
22 whether the alleged violation involved the unreasonable  
23 exercise, control, direction, or interference with the  
24 employed physician's exercise and execution of his or her  
25 professional judgment in a manner that adversely affected  
26 the employed physician's ability to provide quality care  
27 to patients. This review is conducted for the purpose of  
28 quality control, for reducing morbidity or mortality, and  
29 for improving patient care or the employed physician's  
30 services in accordance with Section 5 of the Medical  
31 Practice Act of 1987. The medical staff committee or  
32 external independent physician peer review shall make  
33 findings and recommendations to the employing entity and  
34 the employed physician within 30 days of the conclusion

1 of the gathering of the relevant information by the  
2 committee or peer review. No action may be taken that  
3 affects the ability of a physician to practice during  
4 this review, except in circumstances where the medical  
5 staff bylaws authorize summary suspension.

6 (b) Definitions. For the purpose of this Section:

7 "Employing entity" means a hospital licensed under the  
8 Hospital Licensing Act or a hospital affiliate.

9 "Employed physician" means a physician who receives an  
10 IRS W-2 form, or any successor federal income tax form, from  
11 an employing entity.

12 "Hospital" means a hospital licensed under the Hospital  
13 Licensing Act.

14 "Hospital affiliate" means a corporation, partnership,  
15 joint venture, limited liability company, or similar  
16 organization, other than a hospital, that is devoted  
17 primarily to the provision, management, or support of health  
18 care services and that directly or indirectly controls, is  
19 controlled by, or is under common control of the hospital.

20 "Control" means having at least an equal or a majority  
21 ownership or membership interest. A hospital affiliate shall  
22 be 100% owned or controlled by any combination of hospitals,  
23 their parent corporations, or physicians licensed to practice  
24 medicine in all its branches in Illinois.

25 "Independent external physician review organization"  
26 means an organization of physicians licensed to practice  
27 medicine in all its branches that conducts peer review for  
28 the purposes of medical study, for reducing mortality or  
29 morbidity, or for improving patient care as recognized under  
30 Section 5 of the Medical Practice Act of 1987.

31 "Independent medical staff committee" means a committee  
32 of the medical staff that is not controlled by physicians  
33 employed by an employing entity.

34 "Physician" means an individual licensed to practice

1 medicine in all its branches in Illinois.

2 "Professional judgment" means the exercise of a  
3 physician's independent clinical judgment in providing  
4 medically appropriate diagnoses, care, and treatment to a  
5 particular patient at a particular time. Situations in which  
6 an employing entity does not interfere with an employed  
7 physician's professional judgment include, without  
8 limitation, the following:

9 (1) practice restrictions based upon peer review of  
10 the physician's clinical practice to assess quality of  
11 care and utilization of resources in accordance with  
12 applicable bylaws;

13 (2) supervision of physicians by appropriately  
14 licensed medical directors, medical school faculty,  
15 department chairpersons or directors, or supervising  
16 physicians;

17 (3) written statements of ethical or religious  
18 directives; and

19 (4) reasonable referral restrictions that do not,  
20 in the reasonable professional judgment of the physician,  
21 adversely affect the health or welfare of the patient.

22 (c) Private enforcement. An employed physician aggrieved  
23 by a violation of this Act may seek to obtain an injunction  
24 or reinstatement of employment with the employing entity as  
25 the court may deem appropriate. Nothing in this Section  
26 abrogates any common law cause of action.

27 (d) Department enforcement. The Department may enforce  
28 the provisions of this Section, but nothing in this Section  
29 shall require or permit the Department to license, certify,  
30 or otherwise investigate the activities of an employing  
31 entity.

32 (e) Retaliation prohibited. No employing entity shall  
33 retaliate against any employed physician for requesting a  
34 hearing or review under this Section.

1       (f) Physician collaboration. No employing entity shall  
 2       adopt or enforce, either formally or informally, any  
 3       policy, rule, regulation, or practice inconsistent with the  
 4       provision of adequate collaboration, including medical  
 5       direction of licensed advanced practice nurses or  
 6       supervision of licensed physician assistants and delegation  
 7       to other personnel under Section 54.5 of the Medical Practice  
 8       Act of 1987.

9       (g) Physician disciplinary actions. Nothing in this  
 10       Section shall be construed to limit or prohibit the governing  
 11       body of an employing entity or its medical staff, if any,  
 12       from taking disciplinary actions against a physician as  
 13       permitted by law.

14       (h) Physician review. Nothing in this Section shall be  
 15       construed to prohibit a hospital or hospital affiliate from  
 16       making a determination not to pay for a particular health  
 17       care service or to prohibit a medical group, independent  
 18       practice association, hospital medical staff, or hospital  
 19       governing body from enforcing reasonable peer review or  
 20       utilization review protocols or determining whether the  
 21       employed physician complied with those protocols.

22       (i) Review. Nothing in this Section may be used or  
 23       construed to establish that any activity of a hospital or  
 24       hospital affiliate is subject to review under the Illinois  
 25       Health Facilities Planning Act.

26       Section 99. Effective date. This Act takes effect on  
 27       September 30, 2001.